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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,265

07/09/2004

Osamu Akiba

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EXAMINER

DAHIMENE, MAHMOUD

ART UNIT

PAPER NUMBER

1713

NOTIFICATION DATE

DELIVERY MODE

12/06/2012

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

USPTO@sughrue.com
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Advisory Action Before the Filing of an Appeal Brief	Application No. 10/501,265	Applicant(s) AKIBA ET AL.
	Examiner MAHMOUD DAHIMENE	Art Unit 1713

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 November 2012 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

NO NOTICE OF APPEAL FILED

1. ☒ The reply was filed after a final rejection. No Notice of Appeal has been filed. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114 if this is a utility or plant application. Note that RCEs are not permitted in design applications. The reply must be filed within one of the following time periods:

a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action; or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

c) ☒ A prior Advisory Action was mailed more than 3 months after the mailing date of the final rejection in response to a first after-final reply filed within 2 months of the mailing date of the final rejection. The current period for reply expires 3 months from the mailing date of the prior Advisory Action or SIX MONTHS from the mailing date of the final rejection, whichever is earlier.

Examiner Note: If box 1 is checked, check either box (a), (b) or (c). ONLY CHECK BOX (b) WHEN THIS ADVISORY ACTION IS THE FIRST RESPONSE TO APPLICANT'S FIRST AFTER-FINAL REPLY WHICH WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. ONLY CHECK BOX (c) IN THE LIMITED SITUATION SET FORTH UNDER BOX (c). See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) or (c) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendments filed after a final rejection, but prior to the date of filing a brief, will not be entered because

a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

b) ☐ They raise the issue of new matter (see NOTE below);

c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): (a) ☐ will not be entered, or (b) ☐ will be entered, and an explanation of how the new or amended claims would be rejected is provided below or appended.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing the Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.

12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

STATUS OF CLAIMS

14. The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

/Duy-Vu Deo/ Primary Examiner, AU 1713	/M. D./ Examiner, Art Unit 1713
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Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments filed on 11/23/12 have been considered but are still not persuasive.

Regarding applicant's allegation that claims 11-14 were not examined, the examiner does acknowledge that he inadvertently did not type the claim numbers 11-14 in the final rejection filed 6/1/12, however, the subject matter of those claims has clearly and explicitly addressed in the final rejection filed 6/1/12. In claims 11-14 applicant claims an average diameter of the droplets is 15, 12 μm or less. In the final rejection filed 6/1/12, the office action recites Morozov discloses droplets 0.3 to 20 microns in diameter (page 7, lines 4 and 21) and quoting (paragraph 0005-0007 of Morozov). The office action also recited "Therefore, desiring an even faster drying rate than the one suggested by Angadjivand (column 8, line 12), it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the process of Angadjivand by using the conventional electrospray method disclosed by Morozov because Morozov teaches the advantages of the electrospray method in delivering microdroplets, reducing their size to about 10-20 nm and increasing the electrostatic field to a level where in stream evaporation becomes possible" (paragraph bridging pages 7-8). So, clearly, the subject matter of claims 11-14 has been addressed with specific reference to the droplet diameter sizes claimed in applicant's claims 11-14, the rejection specifies 10-20 microns. As a result, the examiner, respectfully, considers that claims 11-14 subject matter has been specifically addressed, and the finality of the office action is maintained.

Regarding applicant's arguments about the 35 USC § 112 first and second paragraphs, they are not persuasive because, according to applicant's arguments and the specification, applicant claims a "belief" not substantiated by any verifiable data that the fibers are not wetted upon passing through the said wetting mist. The examiner, respectfully maintains, that the rejections are proper because the applicant fails to show how it is possible to expose the fiber to a wetting mist without wetting the fiber. The examiner's position is that the fiber must have been wetted for at least a short time, otherwise, the examiner questions how the fiber's properties of electrical-chargability have been affected if the fiber has not been wetted by the liquid and submits that if the fiber's properties of electrical-chargability have been affected the wetting liquid must have contacted the fiber, and if the wetting liquid contacted the fiber, the fiber must have been wetted to a small degree for at least a short time. The examiner understands that the applicant is not obligated to present a theoretical explanation, however, in this case the applicant is claiming his own belief and assumption and does not offer any guidance on the degree of experimentation necessary to ascertain that the fiber is not wetted to any degree for any length of time. Therefore both rejections under 35 USC § 112 first and second paragraphs are maintained.

Regarding applicant's argument about the 35 USC § 103 rejection, the argument is still based on applicant's assertion that the fiber is not wetted as the applicant believes it, as discussed above, since the limitation is apparently based solely on a belief and assumption the rejection is maintained because applicant did not provide an enabling method that one of ordinary skill in the art can use to ascertain that the fiber is not wetted to any degree and for a short time. Claims 1, 3-14, are rejected.